

Approved:

Attest: _____

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
March 26, 2012
Meeting No. 12-12
7:00 p.m.

Present:

Mayor Phyllis Marcuccio, Councilmember John F. Hall, Jr., Councilmember Tom Moore, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala.

Staff Present:

Acting City Manager Jenny Kimball, Acting City Clerk Brenda Bean, and City Attorney Debra Yerg Daniel.

Motion: to convene into Executive Session pursuant to Sections 10-508(a)(7) and (8) of the State Government Article of the Annotated Code of Maryland to consult with counsel to obtain legal advice and to consult with staff regarding pending litigation involving PEPCO.

Moved by Councilmember Bridget Donnell Newton, seconded by Councilmember Mark Pierzchala and unanimously approved.

1. Convene

The Mayor and Council convened in a regular meeting at 7:00 pm on Monday, March 26, 2012, in the Mayor and Council Chambers, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland.

2. Pledge of Allegiance

Mayor Marcuccio led the Pledge of Allegiance.

3. Agenda Review

Acting City Clerk Brenda Bean reported that agenda item #15 would be moved up on spot so that the order of the agenda would now be items 13, 15 and 14.

4. City Manager's Report

Acting City Manager Kimball reported:

- For those who were not able to attend the Montgomery County Focus Group review of cable services provided by Comcast, there is an online community services survey available if citizens are interested providing feedback.
- The search for a new City Manager is progressing.

5. Citizen's Forum

<i>Citizen</i>	<i>Issue</i>
Stephen Balkam	Funding in FY13 budget for 270 sound wall; Unitarian Church.
Kevin Zaletsky	Pumphrey's Text Amendment
Don Hadley	Ethics concerning Councilmember Moore's outreach to Rockville businesses concerning the Pumphrey's Text Amendment.
Dion Trahan	Planning Commission member; opposition to the expansion of Pumphrey's parking lot.
Casey Parker	Richard Montgomery High School Student – Concerns with overcrowding at RMHS as a result of the Twinbrook Metro Place project.
Doug Reimel	East Rockville Resident - Disagrees with Don Hadley's allegations of Councilmember Moore's outreach to Rockville businesses as being inappropriate.
Dottie Rick	Carr Avenue resident – Traffic situation in and around Beall Elementary School during drop off and pick up.

6. Mayor and Council's Response to Citizen's Forum and Announcements

Mayor Marcuccio	Will ask staff would look into the speeding problem near Beall Elementary School.
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7. Announcements of Vacancies

Mayor Marcuccio said there were vacancies on the following Boards/Commissions: Compensation Commission, Human Rights Commission, Landlord Tenant Affairs Commission, Sign Review Board, and the Senior Citizens Commission.

8. Consent Agenda - Approval of Minutes

Motion: to approve the Consent Agenda.

Moved by Councilmember Mark Pierzchala, seconded by Councilmember John F. Hall, Jr.

In discussion, Councilmember Moore said that, inasmuch as he was not on the Council for the meetings prior to November 28, 2011, he would abstain from voting on those sets of

minutes. The Mayor and Council then agreed to separate the minutes into two groups, those occurring prior to November 28 and those occurring afterwards.

Councilmember Pierzchala withdrew his earlier motion.

Motion: to approve the minutes of: September 12, 2011 (Meeting No. 25-11), September 19, 2011 (Meeting No. 26-11), September 26, 2011 (Meeting No. 27-11), October 3, 2011 (Meeting No. 28-11), October 10, 2011 (Meeting No. 29-11), October 17, 2011 (Meeting No. 30-11), October 24, 2011 (Meeting No. 31-11).

Moved by Councilmember Mark Pierzchala, seconded by Councilmember Bridget Donnell Newton, with Mayor Marcuccio and Councilmembers Pierzchala and Newton approving and Councilmembers Hall and Moore abstaining.

Motion Passed: 3 approved - 0 opposed - 2 abstained

Motion: to approve the minutes of December 5, 2011 (Meeting No. 33-11), and December 12, 2011 (Meeting No. 34-11).

Moved by Councilmember John F. Hall, Jr., seconded by Councilmember Tom Moore and unanimously approved.

9. Public Hearing for SCA 2012-00100 - application to permanently close and abandon an unimproved public right-of-way between Anderson Avenue and Beall Avenue.

Matt Folden, Transportation Planner I, presented the background on this item and the suggested next steps. There was brief discussion about some of the mature trees on the subject property as well as the problem of standing water at the residence on 401 Anderson Avenue. Craig Simoneau, Director of DPW, said that the new sidewalk construction will help with the drainage problem and they are looking to see if there are other things that can be done to help this as well.

There being no other speakers, Mayor Marcuccio declared the public hearing closed and said that record would remain open until 5:00 pm, April 9, 2011. A full transcript of the proceedings can be found in the official file maintained in the Office of the City Clerk.

10. Public Hearing for SCA 2012-00101 - application to permanently close and abandon an improved public right-of-way, Pleasant Drive, between Piccard Drive and the northern City limit.

Matt Folden, Transportation Planner I, presented the background on this item and the suggested next steps. Craig Simoneau, Director of DPW, said that the action to abandon the subject property is not permanent in nature and could be reversed at a future date. The Mayor and Council heard testimony from one speaker. There being no other persons wishing to speak, Mayor Marcuccio declared the public hearing closed and said that the record would remain open until 5:00 pm on April 9, 2012. A full transcript of the proceedings can be found in the official file maintained in the Office of the City Clerk.

11. Public Hearing on Zoning Text Amendment TXT2012-00233 - To delete Sec. 25.08.05.d of the Zoning Ordinance, the provision allowing the expansion of off-

street parking in connection with a nonconforming use; Mayor and Council of Rockville, applicants

Deane Mellander, Zoning Administrator, presented the background on this item. The Mayor and Council heard testimony from 38 speakers. There being no other persons wishing to speak, Mayor Marcuccio declared the public hearing closed and said that the record would remain open until 5:00 pm on April 6, 2012. A full transcript of the proceedings can be found in the official file maintained in the Office of the City Clerk.

12. Presentation Fiscal Year 2013 Proposed Operating Budget and Capital Improvements Program (CIP) Budget.

Given the late hour Mayor Marcuccio inquired whether there was any interest in tabling one or two agenda items to a future agenda. There was agreement to place agenda item numbers 13 and 14 on a future agenda.

Acting City Manager Kimball presented the background on this item and thanked staff for all the work that went into the document. Mary Sue Martin, Budget Analyst, provided an overview on the operating budget; the Capital Improvements Program (CIP); and the proposed budget document.

Ensuing discussion included:

Mayor Marcuccio - spend some time on the five year forecast; does not want to raise taxes.

Councilmember Moore - Jurisdictions all around have raised property tax rates to reflect dropping revenues; Rockville has a \$2 million dollar hold; does not have the sense that we can cut \$2 million worth and would like that to be a part of the discussion with staff.

Councilmember Newton - April 9th is not currently scheduled for a meeting and recommends holding a meeting on that date to allow more time for budget discussions; conduct departmental worksession over a three-week period instead of two.

Mayor Marcuccio – Does the Baltimore Road project need to be done on a timeline? Yes – funding was from grant money and should not be moved.

Councilmember Newton – Funding for the Rockville Women's Business Center; possible use of cost savings from departing Executive Director Sally Sternbach

Councilmember Pierzchala – Would like to see funding for the downstairs gallery at the VisArts Center; VisArts will receive \$25,000.00 in a bond bill from the State; plenty of opportunity to balance as we go forward; good practice to let your colleagues know what you're thinking which allows staff time to do the work; getting behind on CIP funding and there is reluctance to do bonds and also to cut services and programs; will look for budget cuts but they will not be easy to find; these and other issues should come out of worksessions.

Mayor Marcuccio – the budget document is much clearer than previous ones; concerns with infrastructure; status of Rothgeb rehabilitation? Burt Hall, Director of Recreation and Parks responded construction is just about complete and the entire project is about halfway done.

At the conclusion of the discussion, Acting City Manager Kimball Jenny noted that a meeting would be added to the Mayor and Council schedule for April 9 as well as adding another discussion on the CIP for May 14.

13. Discussion and Instructions - Ordinance to Revise Rockville City Code Chapter 22, "Taxation" to add a new Article IX, "High Performance Building Tax Credit for Existing Buildings."

This item was tabled to the April 2, 2012 meeting of the Mayor and Council.

14. Introduction of an Ordinance to amend Chapter 22, "Taxation" of the Rockville City Code so as to amend Article III, "Local Supplement to the State Homeowners' Property Tax Credit," Section 22-21 "Definitions" by amending the definitions of 'Eligible Homeowner' and 'Total Eligible City Real Property Tax' to modify the criteria for eligibility for the homeowners' tax credit.

Councilmember Newton introduced the ordinance.

15. Introduction of an Ordinance to Amend Ordinance #17-11 to Appropriate Funds and Levy Taxes for Fiscal Year 2012.

This item was tabled to the April 2 meeting of the Mayor and Council.

16. Introduction of an Ordinance to Appropriate Funds and Levy Taxes for Fiscal Year 2013.

Councilmember Pierzchala introduced the ordinance.

17. Introduction of an Ordinance to amend Chapter 24 entitled "Water, sewers and sewage disposal," Article III, "Rates and Charges" to establish water and sewer rates for each fiscal year from FY 2013 through FY 2015.

Councilmember Hall introduced the ordinance.

18. Introduction of a Resolution to establish the service charge rate - Municipal Refuse Collection and to establish a charge for unreturned refuse and recycling carts pursuant to section 20-6 of the Rockville City Code.

Councilmember Newton introduced the ordinance.

19. Introduction of a Resolution to establish the Equivalent Residential Unit Rate to be used in calculating the Stormwater Management Utility Fee pursuant to Chapter 19 entitled "Sediment Control and Stormwater Management" of the Rockville City Code; and to establish a fee for application for a credit against the Stormwater Management Utility Fee for private stormwater management facilities.

Councilmember Moore introduced the resolution.

20. Adoption of a Resolution to Declare the Official Intent of the Mayor and Council to Bond Finance Certain Projects Under U.S. Treasury Income Tax Regulation Section 1.150-2.

Director of Finance Gavin Cohen said that the proposed resolution will allow the City of Rockville to be reimbursed for any money spent prior to a bond taking place. It does not commit

The Mayor and Council to borrow for a project.

Ensuing discussion included:

- Does not cover general fund bonding
- Bond sales occur every other year
- Should City bond for items less than a million dollars? Not recommended
- Act in a timely manner; delay the adoption of the resolution pending at least one or two of the budget worksessions then bundle it together (general fund and utility bonding); saving loan costs may incorporate some cushion
- Horizon Hill stormwater bonding; private property; discussion on maintenance.

21. Review and Comment - Mayor and Council Action Report

Councilmember Newton asked the Acting City Manager to outline the next steps on the Pumphrey's text amendment for the viewing audience. Ms. Kimball said that the staff recommends that the public hearing record be held open until close of business Monday, April 2, 2012 followed by discussion and instructions to staff on April 16 with final resolution to take place in early May.

22. Review and Comment - Future Agendas

Based on several changes to future agendas that occurred at the meeting, City Manager Kimball said that the document would be updated and distributed to the Mayor and Council tomorrow (March 27, 2012).

23. Mayor and Council Liaisons to Boards and Commissions Report

Councilmember Pierzchala said that he and Councilmember Moore had attended the Sister City Wine Tasting.

Councilmember Newton applauded Federal Realty Investment Trust for the success of the ice skating rink in Town Center.

Mayor Marcuccio mentioned that Dawson's Market will now open in the Fall.

24. Old/New Business

Regardless of the decision on the Pumphrey's Text Amendment, Councilmember Newton asked staff to follow up on ways to mitigate pedestrian safety issues at West Montgomery and Forest Avenues. Councilmember Newton mentioned the success at RedGate Golf Course commenting on the record number of rounds played. She asked staff to provide a comparison showing the numbers from last year.

Councilmember Moore mentioned that the high volume of golf played likely had something to do with the extremely warm months of February and March. He also mentioned a recent article in the Gazette on the retention of digital images of license plates captured by Montgomery County police cruisers and that that these images may be stored for an indefinite period of

time. Because of his concerns with privacy and a lack of policy on the issue, he would like to place this topic on an upcoming Mayor and Council meeting for discussion. Chief Terry Treschuck said that he would provide the Mayor and Council with additional information on this practice.

25. Adjournment

There being no further business, the Mayor and Council adjourned at 11:02 pm.

Motion: to adjourn.

Moved by Councilmember John F. Hall, Jr., seconded by Councilmember Bridget Donnell Newton and unanimously approved.